

April 3, 2014

Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

MURKIN 6807

Re: Erin McClelland and the Erin McClelland for Congress Committee.

To Whom It May Concern:

Pursuant to 2 U.S.C. §437(g)(a)(1) and 11 C.F.R. §111.4 (2008), please accept this letter as a Complaint against Erin McClelland ("McClelland") and the Erin McClelland for Congress Committee ("Committee") for operating in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission ("FEC" or "Commission") regulations, and more specifically, for the receipt of in-kind contributions in excess of the limits and source prohibitions set forth in 2 U.S.C. 441a and 11 CFR part 110.

I. Facts

The Erin McClelland for Congress Committee is the authorized principal campaign committee for Erin McClelland, a candidate for the U.S. House of Representatives seat representing Pennsylvania's 12th Congressional District. McClelland filed an amended FEC Form 2 Statement of Candidacy on May 30, 2013. The Committee filed an amended FEC Form 1 Statement of Organization on May 30, 2013 for the 2013-2014 election cycle. The primary election for Pennsylvania's 12th Congressional District is scheduled for May 20, 2014.

The Arche Wellness Foundation ("Foundation") is a non-profit corporation registered under 501(c)(3) of the Internal Revenue Code. The Foundation classifies itself as a charity and provides a number of health and wellness services. Erin McLelland is the Executive Director and a Principal for the Foundation.

McClelland is currently appearing in an advertisement paid for and disseminated by the Foundation ("Advertisement"). The Advertisement features McClelland as the spokeswoman, speaking directly to the camera regarding the services the Foundation provides. The Advertisement began airing on Sunday, March 30, 2014, and is scheduled to continue to run through Sunday, May 25, 2014. The Advertisement can be viewed here:
<https://www.youtube.com/watch?v=GRQ1gWBLHBo>.

II. Relevant Law

In-Kind Contributions

A contribution is defined, in part, as a gift, loan, deposit of money, or *anything of value* made by any person for the purpose of influencing any election for Federal office. 11 CFR §100.52(a) (emphasis added). Under this definition, "anything of value" includes all in-kind contributions,

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or the provision of any goods or services without charge or at a charge that is less than the usual and normal charge. 11 CFR §100.52(d). In-kind contributions, like other contributions, are subject to federal contribution limits. Federal law prohibits corporations from making contributions to federal candidates. 11 CFR §114(a). Organizations formed under 501(c)(3) of the Internal Revenue Code are considered nonprofit corporations, and thus also prohibited from making contributions in connection with federal elections.

Coordinated Communications as In-Kind Contribution

A payment for a coordinated communication made for the purpose of influencing a Federal election is an in-kind contribution to the candidate or authorized committee with whom or which it was coordinated. 11 CFR § 109.21(b)(2).

A coordinated communication is a communication that satisfies a three pronged test. This test considers (1) the source of payment ("the payment prong"), (2) the subject matter of the communication ("the content prong") and (3) the interaction between the person paying for the communication and the candidate or political party committee ("the conduct prong"). 11 CFR § 109.21(a).

The payment prong is satisfied when the coordinated communication is paid for in whole or in part, by a person other than the candidate, an authorized committee or a political party committee with whom the communication is coordinated. 11 CFR § 109.21(a)(1).

The content prong is satisfied, among other instances, when a public communication refers to a clearly identified House or Senate candidate and is publicly distributed or otherwise publicly disseminated in the clearly identified candidate's jurisdiction 90 days or fewer before the clearly identified candidate's general, special, or runoff election, or primary election. 11 CFR § 109.21(c)(4)(i).

The conduct prong may be satisfied in several ways, including where there is agreement or formal collaboration between the person paying for the communication and the candidate clearly identified in the communication, or the candidate's authorized committee. 11 CFR § 109.21(e).

III. Legal Analysis

As a result of her appearance in the Advertisement, McClelland and the Committee violated federal law by accepting in-kind contributions well in excess of federal limits and source prohibitions during the current 2013-2014 election cycle.

The actions of the Foundation and the Committee clearly satisfy the test for coordination detailed in the Regulations. The Advertisement, paid for by the Foundation, features McClelland, a House candidate, speaking directly to the camera for the entirety of the Advertisement. The Advertisement is airing well within 90 days of McClelland's primary election, which takes place on May 20, 2014. Lastly, McClelland's direct role in the production of the Advertisement, and her role as Principal for the Committee and Executive Director and Spokesperson for the Foundation, demonstrates clear agreement and formal collaboration between McClelland and the

Foundation. Accordingly, the Advertisement is undoubtedly a coordinated communication that resulted in an improper in-kind contribution from the Foundation to the Committee, in clear violation of the law.

IV. Conclusion

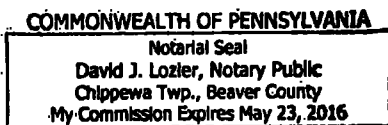
Upon information and belief, and based upon the facts relayed herein, Erin McClelland and the Erin McClelland for Congress Committee have violated the Federal Election Campaign Act of 1971, as amended, and Federal Election Commission Regulations. Accordingly, we respectfully request that the Commission conduct an immediate investigation into the violations outlined above and impose the maximum penalty under law.

The foregoing is correct and accurate to the best of my knowledge, information and belief.

Respectfully submitted,

NAME Megan A. Carpenter

Sworn to and subscribed before me this 3 day of April, 2014.



[Signature]
Notary Public

My Commission Expires:

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